



Billing Code: 4910-57-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Transit Administration**

**[Docket No. FTA-2014-0016]**

#### **Notice of Buy America Waiver for Waterjets**

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of Buy America waiver.

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**SUMMARY:** In response to the Golden Gate Bridge Highway & Transportation District's (Bridge District) request for a Buy America waiver for waterjets, the Federal Transit Administration (FTA) hereby waives its Buy America requirements for waterjets to be installed in the Bridge District's M.V. Mendocino ferry vessel. This waiver is limited to a single procurement for the waterjets to be installed in the M.V. Mendocino ferry vessel, which is part of an FTA-funded project.

**DATES:** This waiver is effective immediately.

**FOR FURTHER INFORMATION CONTACT:** Mary J. Lee, FTA Attorney-Advisor, at (202) 366-0985 or [mary.j.lee@dot.gov](mailto:mary.j.lee@dot.gov).

**SUPPLEMENTARY INFORMATION:** The purpose of this notice is to announce that FTA has granted a non-availability waiver for the Bridge District's procurement of waterjets to be installed in its M.V. Mendocino ferry vessel.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C.

5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product must take place in the United States; and (2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that “the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,” then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

Earlier this year, FTA received a petition from the Bridge District seeking a waiver that would permit them to procure replacement waterjets for the M.V. Mendocino ferry vessel that would not be manufactured in the United States and therefore would not comply with FTA’s Buy America requirements. The Bridge District submitted documentation showing that it had sought a domestic manufacturer of waterjets meeting its technical requirements, but the one domestic manufacturer it located, NAMjet of Arkansas, was not capable of constructing commercial waterjets meeting the Bridge District’s design needs, and that the only responsive bidder, HamiltonJet of New Zealand, would not be able to provide a Buy America-compliant waterjet to the Bridge District. Pursuant to 49 CFR 661.7, FTA published a notice in the Federal Register on July 8, 2014, (79 FR 38665) seeking public comment on the Bridge District’s request.

During the comment period, FTA received no objections to the Bridge District’s petition. In fact, FTA received no comments at all, indicating a likely lack of interest from domestic manufacturers who were ready, willing, and able to produce waterjets meeting the Bridge District’s specifications. As part of its due diligence, FTA also reached out to its sister agency,

the Maritime Administration (MARAD), the modal agency within the US Department of Transportation responsible for maritime matters, including domestic vessel construction. MARAD's Office of Shipyards and Marine Engineering confirmed that of the domestic manufacturers of waterjets, there were none capable of meeting the higher volume performance standards required for the Bridge District's ferry.

Based upon the Bridge District's representations that it is unable to procure Buy America-compliant waterjets, the lack of responses to FTA's Federal Register Notice, and FTA's outreach to its MARAD counterparts, FTA is issuing a non-availability waiver for HamiltonJet's high-capacity waterjets pursuant to 49 CFR 661.7(c). This waiver is limited to the procurement of waterjets for the M.V. Mendocino. Subsequent requests for replacement waterjets will be subject to similar notice-and-comment publication requirements.

Dana Nifosi,  
Deputy Chief Counsel.